

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

AMK CONVENIENCE LLC,

Plaintiff,

vs.

WEST GUARD INSURANCE
COMPANY,

Defendant.

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No. _____

NOTICE OF REMOVAL

Defendant WestGUARD Insurance Company (“WestGUARD”) hereby removes this action from the 160th Judicial District Court of Dallas County, Texas, where it is currently pending. In support of removal, WestGUARD states the following:

THE STATE COURT ACTION

1. Plaintiff AMK Convenience LLC (“AMK”) initiated this action on April 3, 2019, by filing its Original Petition, Jury Demand, and Request for Disclosure (“Petition”) in the 160th Judicial District Court of Dallas County, Texas. Prior to removal, this action was pending in state court as Cause No. DC-19-04768.

2. AMK asserts claims against WestGUARD for breach of contract and bad faith insurance practices based on allegations that WestGUARD failed to timely investigate and pay a claim made under an insurance policy issued to AMK by AmGuard Insurance Company (“AmGUARD”), which is one of WestGUARD’s subsidiaries. AMK seeks actual damages, exemplary damages, pre-judgment and post-judgment interest, costs, and attorneys’ fees.

DIVERSITY JURISDICTION EXISTS

3. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a), because AMK and WestGUARD are citizens of different states and the amount in controversy exceeds the sum or value of \$75,000, excluding interest and costs.

4. Defendant WestGUARD is a corporation organized under Pennsylvania law with its principal place of business in Wilkes Barre, Pennsylvania. Consequently, WestGUARD is a citizen of Pennsylvania. *See* 28 U.S.C. § 1332(c).

5. Plaintiff AMK is limited liability company (“LLC”) organized under Texas law. The citizenship of an LLC is determined by the citizenship of its members. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). AMK’s only members are Mohd Shahin and Ali Daka. Upon information and belief, Shahin and Daka are citizens of Texas; they are not citizens of Pennsylvania.

6. The amount in controversy exceeds the sum or value of \$75,000, excluding interest and costs, because AMK alleges that it seeks “monetary relief over \$200,000 but not more than \$1,000,000.” Orig. Pet. ¶ 2. In addition, the claim that WestGUARD allegedly failed to investigate and pay is for approximately \$140,000 in cash, equipment, and tobacco inventory.

THE PROCEDURAL REQUIREMENTS HAVE BEEN SATISFIED

7. Removal is timely because this notice was filed within thirty days after WestGUARD was served with a copy of the summons and complaint. *See* 28 U.S.C. § 1446(b)(2)(B) & (C).

8. Removal to this Court is proper because this is the federal district and division embracing the state court where this action is pending. 28 U.S.C. § 1441(a).

9. WestGUARD has given prompt notice of this removal to the state court by filing a copy of this Notice of Removal with the Dallas County District Clerk, as required by 28 U.S.C. § 1446(d).

10. As required by LR 81.1 of the Local Civil Rules, WestGUARD has attached an index of all documents filed in the state court, a copy of the state court docket sheet, a copy of each document filed in state court, and a separately signed certificate of interested persons that complies with LR 3.1(c).

PRAYER

WHEREFORE, WestGUARD requests that this Court exercise jurisdiction over this matter as allowed by law.

Dated: May 7, 2019.

Respectfully submitted,

/s/ Taylor F. Brinkman

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ATTORNEYS FOR WESTGUARD
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CERTIFICATE OF SERVICE

I certify that on May 7, 2019, I served this document on Plaintiff's counsel of record via email at the email address and mailing address shown below:

Carter L. Hampton

HAMPTON & ASSOCIATES, P.C.

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/s/ Taylor F. Brinkman